



**I. Proposed Schedule<sup>2</sup>****A. Bandspeed's Proposed Schedule**

Bandspeed respectfully submits the following proposed schedule based on ECF No. 1356, adjusting it as needed and including dates regarding claim and prior art limitations.

Sept. 13, 2013	EPDs shall file and serve an identification of no more than 3 references or combinations of references per patent claim asserted on behalf of all EPDs. EPDs shall serve amended invalidity contentions on Bandspeed reflecting updated asserted claims and Accused Products. <b>[DISAGREED]</b>
Nov. 1, 2013	Deadline for designation of experts and serving expert reports on matters on which a party has the burden of proof. <b>[AGREED]</b> All previous expert disclosures and reports served by the parties shall be designated as draft disclosures and reports under Fed. R. Civ. P. 26(b)(4)(A) and shall not be used for any purpose in this litigation or otherwise. <b>[DISAGREED]</b>
Dec. 4, 2013	Deadline for designation of rebuttal experts and for serving rebuttal expert reports <b>[AGREED]</b>
Dec. 20, 2013	Deadline for completing <b>[Defendants: expert; BSPD: all]</b> discovery
Jan. 10, 2014	Deadline to file dispositive motions. Bandspeed and EPDs may file brief(s) in support of dispositive motions totaling no more than 60 pages in length. Bandspeed and the Bluetooth SIG may file brief(s) in support of dispositive motions of no more than 35 pages in length. <b>[AGREED]</b> Deadline to file any objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702, by motion, specifically stating the basis for the objection and identifying objectionable testimony. <b>[AGREED]</b>
Jan. 17, 2014	Bandspeed shall file and serve a list of no more than 10 patents-in-suit claims against each EPD. <b>[DISAGREED]</b>
Jan. 24, 2014	Deadline to file responses to motions filed on January 10, 2013 Deadline to file motions <i>in limine</i> (if any) <b>[AGREED]</b>
Jan. 31, 2014	Deadline to file replies to responses filed on January 24, 2013 Deadline to respond to motions <i>in limine</i> (if any) Parties shall file and serve all other information and materials required by Local Rule CV-16(e) <b>[AGREED]</b>
Feb. 13, 2014	Final Pretrial Conference <b>[AGREED]</b>
Feb. 13-14, 2014	Voir dire <b>[AGREED]</b>
Feb. 17, 2014	Trial begins <b>[AGREED]</b>

<sup>2</sup> The parties understand that the following schedule moots the pending motions regarding due dates for service of expert reports. (Dkts. 1354, 1356, 1358.)

## B. Defendants' Proposed Schedule

Defendants submit the following proposed schedule based on ECF No. 1356. The EPDs' proposal regarding limiting claims and prior art references are in Section II.

Defendants' Proposal	Event
October 25, 2013	Deadline for completing fact discovery [ <b>DISAGREED</b> ]
November 1, 2013	Deadline for designation of experts and serving expert reports on matters on which a party has the burden of proof [ <b>AGREED</b> ]
December 4, 2013	Deadline for designation of rebuttal experts and for serving rebuttal expert reports [ <b>AGREED</b> ]
December 20, 2013	Deadline for completing [ <b>Defendants: expert; BSPD: all</b> ] discovery
January 10, 2014	Deadline to file dispositive motions. Bandspeed and EPDs may file brief(s) in support of dispositive motions totaling no more than 60 pages in length. Bandspeed and the Bluetooth SIG may file brief(s) in support of dispositive motions of no more than 35 pages in length. [ <b>AGREED</b> ]
January 24, 2014	Deadline to file responses to motions filed on January 10, 2013 Deadline to file motions <i>in limine</i> (if any) [ <b>AGREED</b> ]
January 31, 2014	Deadline to file replies to responses filed on January 24, 2013 Deadline to respond to motions <i>in limine</i> (if any) Parties shall file and serve all other information and materials required by Local Rule CV-16(e) [ <b>AGREED</b> ]
February 13, 2014	Final Pretrial Conference [ <b>AGREED</b> ]
February 13-14, 2014	Voir dire [ <b>AGREED</b> ]
February 17, 2014	Trial begins [ <b>AGREED</b> ]

## II. Limiting Asserted Claims and Prior Art References

The parties' positions with respect to further limiting Asserted Claims and to limiting the number of prior art references are below:

Event	Bandspeed's Proposal	EPDs' Proposal
Bandspeed further limits its Asserted Claims to 10 total claims among both patents in suit	January 17, 2014	Same day as EPD's proposed date for close of fact discovery (i.e., October 25, 2013)
EPD serve identification of limited prior art references	<p>Identification of no more than 3 references or combinations of references for each asserted claim.</p> <p>EPDs shall serve amended invalidity contentions on Bandspeed reflecting updated asserted claims and Accused Products</p> <p>Date: September 13, 2013.</p>	<p>Identification of a total of 25 prior art references or combinations of references, and not more than 5 references or combinations of references for each asserted claim.</p> <p>Date: Same day as EPDs serve expert report on invalidity (i.e., November 1, 2013).</p>

### III. Bandspeed's Motion to Compel Documents (Dkt. 1270)

1. Joint Defense Communications & Agreements: Bandspeed seeks production of communications regarding interpretation of the Bluetooth Patent/Copyright License Agreement.<sup>3</sup> Defendants contend the joint defense agreement and any such communications are privileged and work product.<sup>4</sup> The parties cannot reach agreement and therefore require the Court's assistance.

2. Indemnification: Bandspeed seeks production of EPDs' communications with chip manufacturers regarding indemnification in this action.<sup>5</sup> As an offer of compromise, Motorola Mobility LLC and Motorola Solutions, Inc. agree to produce requests for indemnification and any responses thereto if Bandspeed withdraws any deposition topics

<sup>3</sup> Dkt. 1270 at 3-6; Dkt. 1310 at 2-5; Dkt. 1311 at 2-6.

<sup>4</sup> Dkt. 1281 (all); Dkt. 1287 at 1-4.

<sup>5</sup> Dkt. 1270 at 7-8; Dkt. 1310 at 5. Garmin produced its communications relating to indemnification, and thus, this issue is moot for Garmin. (Dkt. 1283.)

concerning the same (i.e., Licensing Topic No. 2). Other EPDs do not extend the same offer. The parties cannot reach agreement and therefore require the Court's assistance.

3. Licenses: Bandspeed seeks production of all patent and technology licenses relating to "wireless communication functionality" in the Accused Products.<sup>6</sup> EPDs have already produced licenses relating to Bluetooth and adaptive frequency hopping in the Accused Products but do not agree to produce licenses related to other "wireless communication functionality."<sup>7</sup>

The parties cannot reach agreement and therefore require the Court's assistance.

#### **IV. Bandspeed's Motion to Compel Depositions at a Single Location and at a Single Time (Dkt. 1274)**

Garmin has not identified a 30(b)(6) representative for the following topics: Damages Nos. 1(b), 6, and Licensing Nos. 1, 2(a), 9, 18, 19. On August 29, 2013, Garmin agreed to identify a witness and available dates on these topics by September 6. Bandspeed agrees to withdraw this issue upon receipt of the requested information from Garmin.

#### **V. EPDs' Motions for Protective Orders Regarding Depositions**

The remaining disputed topics that require the Court's assistance are listed below per motion.<sup>8</sup> Several of the disputed topics correspond to issues addressed in Bandspeed's motion to compel documents. (Dkt. 1270.)

- BlackBerry Motion for a Protective Order. (Dkt. 1317). Licensing Nos. 2(b)-2(d), 8, 14, 20; Damages Nos. 3(b), (e)-(f), (h)-(m), (o); Infringement No. 2(p); Product Manufacturing Nos. 5(e), 5(f); Organizational Nos. 2(f), (h), (i).

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<sup>6</sup> Dkt. 1270 at 10-11; Dkt. 1310 at 6.

<sup>7</sup> Dkt. 1287 at 7-9; Dkt. 1287-1 (Declaration of Raymond Warren). Garmin produced its licenses related to "wireless communication functionality" and thus, this issue is moot for Garmin. (Dkt. 1283.)

<sup>8</sup> Regarding the depositions of Toshiba scheduled for October, Bandspeed and Toshiba are continuing to negotiate any remaining issues.

- Garmin Motion for a Protective Order. (Dkt. 1369). Licensing Nos. 2(b)-2(d), 5, 8, 10, 14, 16, 20; Damages Nos. 3(b), (e), (f), (h) through (m), and (o), 11, 12, 14, 23(a)-(e); Technical Nos. 2(p); Manufacturing Nos. 5(e) and (f); Organizational Nos. 2(e), (f), (h), (i).
- LG Motion for a Protective Order. (Dkt. 1344). Licensing Nos. 1c, 1d, 2a-d, 5, 8, 20; Damages Nos. 3(b), (e), (f), (h) through (m), and (o); Organizational Nos. 2f, 2h, 2i
- Motorola Motion for a Protective Order. (Dkt. 1313). Licensing Nos. 1(d), 2(a), 2(b), 2(d), 5, 8, 10, 20; Damages Nos. 3(b), (e), (f), (h) through (m), and (o), 14; Organizational Nos. 2(e), (f), (h), (i).

Dated: August 30, 2013

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**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who have consented to electronic service, Local Rule CV-5(a)(3)(A), on this the 30th day of August, 2013.

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